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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,154	01/21/2004	Jun-Ichi Nezu	14875-057002 / C2-906DPIP	4898
26161	7590	01/10/2006	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			BUNNER, BRIDGET E	
			ART UNIT	PAPER NUMBER
			1647	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Status of Application, Amendments and/or Claims

The amendment of 21 January 2004 has been entered in full. Claims 8-11, 13, and 15 are amended. Claims 1-7 and 28 are cancelled.

Claims 8-27 are pending.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 8-25 and 27, drawn to an isolated nucleic acid encoding the polypeptide of SEQ ID NO: 1, vector, host cell, and method of making the polypeptide, classified in class 435, subclass 69.1, for example.
 - II. Claim 26, drawn to an antibody that specifically binds the polypeptide, classified in class 530, subclass 387.1.

The inventions are distinct, each from the other because of the following reasons:

- a. Although there are no provisions under the section for "Relationship of Inventions" in M.P.E.P. § 806.05 for inventive groups that are directed to different products, restriction is deemed to be proper because these products constitute patentably distinct inventions for the following reasons. Groups I-II are directed to products that are distinct both physically and functionally, are not required one for the other, and are therefore patentably distinct. The antibody of Group II includes, for example, IgG molecules which comprise 2 heavy and 2 light chains containing constant and variable regions, including framework regions which act as a scaffold for the 6 complementarity determining regions (CDRs). Polypeptides, such as the antibody of Group II, and polynucleotides, which are composed of nucleic acids, are structurally distinct molecules; any relationship between a polynucleotide and polypeptide is dependent upon the information provided by the nucleic acid sequence open reading frame as it corresponds to the primary amino acid sequence. In the present claims, a

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polynucleotide of Group I will not encode an antibody of Group II, and the antibody of Group II cannot be encoded by a polynucleotide of Group I.

Therefore, the antibody and polynucleotide are patentably distinct.

The antibody and polynucleotide inventions have a separate status in the art as shown by their different classifications. Furthermore, searching the inventions of Groups I and II would impose serious, non-coextensive search burden since a search of the polynucleotide of Group I would not be used to determine the patentability of an antibody of Group II, and vice-versa.

2. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and separate search requirements, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bridget E. Bunner whose telephone number is (571) 272-0881. The examiner can normally be reached on 8:30-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on (571) 272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BEB
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06 January 2006

Bridget E. Bunner

**BRIDGET BUNNER
PATENT EXAMINER**